



Country of Origin Labeling Surveillance Audit Procedures for Retail Facilities

1 Purpose

This document provides the procedures for conducting surveillance audits of retail facilities to determine compliance with the Country of Origin Labeling (COOL) requirements of the 2002 Farm Bill.

2 Scope

The surveillance audit procedures are applicable to retail facilities licensed under the Perishable Agricultural Commodities Act (PACA) of 1930. The surveillance audits will be conducted at retail facilities designated by the Department of Agriculture (USDA), Agricultural Marketing Service (AMS), Livestock and Seed (LS) Program, Standardization Branch.

3 Reference Documents

- *Federal Register Part IV USDA AMS 7 CFR Part 60 Mandatory Country of Origin Labeling of Fish and Shellfish; Interim Rule*, dated October 5, 2004
- *Country of Origin Labeling Compliance Guide*, dated July 31, 2006
- *COOL Workbook*, dated July 28, 2006.
- <http://www.ams.usda.gov/cool/index.htm>

4 Responsible Authority (Agency)

The responsible authority for conducting COOL surveillance audits is the USDA, AMS, LS Program, Standardization Branch. The responsible authority will be referred to as USDA in this document.

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5 Responsibilities

USDA employees and representatives operating under delegated authority from USDA shall:

- a) Possess valid official government issued picture identification.
- b) Identify themselves to retail facility officials by using the official identification.
- c) Indicate to facility officials that they are an agent of the USDA conducting an official audit to verify compliance with the COOL requirements of the 2002 Farm Bill.
- d) Dress appropriately and conduct themselves in a professional manner at all times.
- e) Interact with retail facility personnel in a courteous and diplomatic manner while remaining observant and thorough in conducting the audit.
- f) Limit the scope of the audit to the covered commodities offered for retail sale and the supporting documentation that verifies COOL compliance at the retail facility.
- g) Conduct an opening and closing meeting with the retail facility officials.
- h) Answer any questions and provide information concerning the COOL regulation requirements.
- i) Contact the COOL Program Manager with any questions and forward all findings as set forth in this document.
- j) Discuss all findings with the retail facility official during the closing meeting.
- k) Consider any information gathered during an audit as confidential, not to be shared with officials or employees of other stores or businesses.
- l) Complete the applicable forms in the Cool Workbook and submit to USDA at the designated contact point.
- m) Ensure proper expense information is submitted to USDA, when applicable.

6 Audit Frequency

Audit locations and frequency will be pre-determined and assigned to auditors by USDA.

7 Audit Procedures

7.1 Prior to conducting the audit, review the reference documents and become familiar with all COOL requirements and covered commodities.

7.2 Obtain information about the retail facility designated for auditing by the USDA.

7.3 In the COOL Workbook, enter the available information onto the COOL Retail Surveillance Audit Worksheet (Worksheet). This information will be automatically transferred to the COOL Retail Surveillance Audit Information Form (Information Form) and the COOL Retail Surveillance Audit Checklist (Checklist) in the COOL Workbook.

7.4 Save the COOL Workbook with the following file naming format:

- a) Full name of the state that the audit is performed in (no abbreviations).
- b) Date that the audit is conducted.
- c) Initials of the auditor conducting the audit.
- d) Sequential number of audits performed by that auditor in that state on that day.
- e) Do not use any punctuation in the file name for the Workbook.



f) File name examples:

- 1) Texas 07 20 06 LPK 01 – This is the first COOL retail surveillance audit conducted by LPK in the state of Texas on July 20, 2006.
- 2) Texas 07 20 06 LPK 02 – This is the second COOL retail surveillance audit conducted by LPK in the state of Texas on July 20, 2006.
- 3) Louisiana 07 20 06 LPK 01 – This is the first COOL retail surveillance audit conducted by LPK in the state of Louisiana on July 20, 2006.

7.5 Print the Worksheet to facilitate data collection during the audit. Print the Information Form and Checklist to leave with the retail facility at the conclusion of the audit.

7.6 Adhere to the responsibilities outlined in Section 5 of this document.

7.7 Upon arrival at the facility, the auditor shall introduce themselves as a representative of USDA; provide the facility representative with official Government identification; and request a meeting with the facility manager, counter manager, or other appropriate official. The retail facility representative may invite anyone he/she believes would be involved in COOL compliance requirements to participate in the audit.

- a. If the facility representative refuses to cooperate with the audit; gather as much information as possible and leave the retail facility; document the specifics of the incident, including the store representative's name if possible; and contact the COOL Program Manager with the information. Every effort should be made to complete the audit; however, do not confront a belligerent or reluctant facility representative.

7.8 Conduct a short opening meeting, covering the following areas:

- a) Explain the scope and objective of the audit.
 - 1) Scope of the Audit – Country of origin declaration, method of production designation, and supporting documentation to verify COOL compliance for all covered commodities available for retail sale at the retail outlet.
 - 2) Objective of the Audit - To determine the retail outlet's compliance to the COOL regulation requirements.
- b) Provide the Information Form to the facility representative.
- c) Provide a short summary of the methods and procedures to be used to conduct the audit.
- d) Gather additional information about the retail facility. Verify the facility name, number, address, phone number, e-mail, representative's name and contact information. In addition, verify the address that the official audit notification and request for corrective actions should be sent to.
- e) Answer any questions pertaining to the audit or to the COOL regulation.
- f) Inform the facility representative that they are welcome to accompany you during the audit.
- g) Confirm the time and location for a closing meeting at the conclusion of the audit.



7.9 Review all covered commodities available for retail sale in the facility to evaluate if the product is labeled or identified in compliance with the COOL regulation. Observe all locations where covered commodities may be presented for sale, including the retail service counter, fresh and frozen seafood areas, sale counters and promotional display areas. In-store delis and foodservice areas are exempt from COOL regulation requirements.

7.10 While conducting the audit, explain to the facility representative what you are looking for (to the extent possible). If a non-compliance finding is identified, bring this to the store representative's attention.

7.11 Document information on the Worksheet for any covered commodities that are not identified in accordance with the COOL regulation. If a non-compliance finding is identified, record the appropriate Finding Number adjacent to the non-complying item on the Worksheet and briefly summarize the non-compliance in the *Findings Summary* section of the Worksheet.

7.12 Select two covered commodities to conduct an in-store traceback for the purpose of verifying the accuracy of the COOL identification as it pertains to the requirements of the COOL regulation.

- a) Document the following information under the *Tracebacks* section of the Worksheet: the name and address of the supplier, a complete description of the product, the unique product identifier, and the country of origin and method of production. Document enough information on the Worksheet to enable a traceback to the firm or entity responsible for making the initial claim for country of origin and method of production. In order to ensure that suppliers are in compliance with the COOL regulations, USDA shall randomly select retail surveillance audits to gather additional information on covered commodities so that USDA officials can conduct tracebacks to the firm or entity responsible for initiating the country of origin and method of production claims.
- b) If possible, interview the store employee responsible for labeling the covered commodities. Ask the employee to demonstrate the system that is used to ensure proper COOL identification.
- c) If the covered commodity is pre-labeled for the country of origin and method of production on the consumer package, the COOL information on package is sufficient evidence to establish the product's country of origin and method of production. No further traceback is necessary.
- d) If the covered commodity is pre-labeled for country of origin and method of production on the consumer package or on the shipping container and subsequently re-labeled at the retail outlet, the original label on the consumer package or shipping container should be observed to verify compliance to the COOL Regulation. If the container with the COOL information is not available for review; audit bills of lading, shipping manifests, receiving documents, product labels, or any documents that will verify the country of origination declaration and method of production designation for the selected item. Store logs may be used to verify COOL claims if used in conjunction with other official documentation.



- e) If the covered commodities do not have information on country of origin and/or method of production on the consumer package or shipping container, the documentation or verifiable record must contain information that identifies the retail supplier, the product, the country (ies) of origin and method(s) of production, and some form of tracking (i.e. unique identifier) that links the documentation to the covered commodity.
- f) Records relied upon at the point of sale to establish a covered commodity's country of origin and method of production must be available during normal business hours to any duly authorized representative of USDA for as long as the product is on hand.
- g) If findings are identified during the traceback, record all applicable information along with the Finding Number in the *Tracebacks* section of Worksheet. Summarize the non-compliance in the *Findings Summary* section of the Worksheet.

7.13 When all covered commodities have been reviewed and the tracebacks have been completed, fill out the Checklist by documenting that all of the *Items to be Verified* have been addressed. If any of the *Items to be Verified* do not apply or if there are not any covered commodities available to audit, complete the checklist by marking the "NA" block adjacent to the applicable *Items to be Verified*.

7.14 Summarize all findings on the Worksheet and transfer this information to the *Non-Compliance Findings Summary* section of the Checklist.

7.15 Conduct a closing meeting with the facility representative. The facility representative may invite anyone he/she believes would be involved in the COOL regulation requirements to attend the closing meeting. During the closing meeting:

- a) Review all audit documents and explain the determinations made on the COOL Worksheet and Checklist.
- b) If findings have been identified, provide the completed Checklist to the store representative, with the findings summarized.
- c) Inform the store representative that the findings are not official until they are reviewed by the COOL Program Manager and that they will receive a letter from USDA requesting corrective actions to address the findings, if applicable.
- d) Answer all questions pertaining to the audit or the findings.
- e) Thank the store officials for their time and cooperation.

7.16 After the audit has been concluded, transfer the information from the written Worksheet to the Worksheet and Checklist in the COOL Workbook. Summarize the findings in the *Non-Compliance Findings Summary* section of the Checklist using clear, concise statements so that the finding(s) can be easily understood by the COOL Program Manager. If there are no findings for any of the *Items to be Verified*, enter a "NA" in that area of the *Non-Compliance Findings Summary* section of the Checklist.

7.17 USDA auditors shall complete the *Charges Summary* section of the COOL Workbook by entering all charges incurred in the performance of the audit.

7.18 Submit charges for the audit using established procedures.



7.19 E-mail or fax the completed COOL Workbook to USDA at the designated contact point.

- a) E-mail address: COOLAudit@usda.gov
- b) Fax: 202-354-5062

8 Types of Violations

8.1 Failure to Label Product. It is a violation for a retailer to fail to identify the country of origin and method of production of a covered commodity at the final point of sale to consumers.

8.2 Misabeled Product. It is a violation for a retailer to incorrectly identify the country of origin and method of production of a covered commodity. Retailers are required to provide accurate notification to consumers about the country of origin and method of production of covered commodities. Any retailer that is found to have provided inaccurate information will not be held in violation if the information provided by the supplier(s) was inaccurate and the retailer could not have been reasonably expected to have had knowledge of the violation.

8.3 Failure to Maintain Records. It is a violation for retailers and their suppliers to fail to maintain records that will:

- a) Permit substantiation of country of origin and method of production claims.
- b) Provide supplier or chain of custody information that will allow traceability to the firm or entity responsible for initiating the country of origin and method of production claims.

9 General Information

If any questions arise or problems are encountered during the audit, immediately contact the COOL Program Manager using designated procedures or at 202-720-4486.

These procedures are effective immediately.

Martin E. O'Connor, Chief
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